

Mariposa County Pesticide Use Enforcement Program

Multi-Year Work Plan for 2010, 2011, and 2012

Mission Statement:

To promote the safe use of pesticides in Mariposa County by regulating their use to protect workers, the public's health and safety, and the environment.

Pesticide Use Enforcement Program Description

PERSONNEL and RESOURCES

- Staffing
 - 1 Agricultural Commissioner/Sealer
 - 1 Senior Agricultural & Standards Inspector
 - 1 Agricultural & Standards Program Technician
 - 1 Clerical staff part time (0.5 staff year)
- Full time equivalent (FTE) staff dedicated to Pesticide Use Enforcement (PUE) per year (includes management, supervision, inspector, technician, and clerical hours)
 - Historical
 - 1.0 FTE/Year
 - Projections
 - 2010 2.0 FTE/Year
 - 2011 2.0 FTE/Year
 - 2012 2.0 FTE/Year
- Assets
 - All personnel have vehicles available for their use
 - All personnel have a computer workstation at their desk
 - A dedicated permit computer and printer

PERMIT ISSUANCE ANNUAL WORKLOAD ANALYSIS

- Permit Issuance
 - Average number of Restricted Materials Permits ~ 20
 - Private applicators certified ~ 5
 - Average number of operator identification numbers (OIN) ~ 41
 - Notices of intent (NOI) ~ 7 (5 denied)
 - Registrants
 - Pest control advisors (PCA) ~ 10
 - Pest control businesses (PCO) ~ 16
 - Pilots ~ 1
 - Farm labor contractors ~ 1
 - Structural pest control operators ~ 35
- Local Conditions:
 - Significant Crops Grown:
 - Livestock, wine grapes, tree crops (almonds & olives), and rangeland

- Sensitive Sites:
 - Areas adjacent to federal lands (U.S. Forest Service, National Park Service)
 - Locations at the ag/urban interface
 - Waterways (dependent on aquatic toxicity of pesticides)
 - Endangered species habitat
- Workload trends – We expect the workload in permit issuance to remain static or decrease for the following reasons:
 - Decreased use of pesticides, particularly restricted use materials, by agricultural producers
 - Increased regulations for ground and surface water protection, particularly conditional agricultural waivers on irrigated lands.
 - Decreased number of agricultural producers in general due to urbanization of rural areas
 - Increased number of crops grown without pesticides, with reduced pesticide use, or organic/sustainable agriculture

A. RESTRICTED MATERIALS PERMITS:

Permit Evaluation:

- Approximately 20 restricted materials permits are issued annually
- Majority of permits are issued for phenoxy herbicides for poison oak/brush control, and strychnine and zinc phosphide for vertebrate pest control
- Permits are only approved and issued by one licensed and trained staff:
 - Agricultural Commissioner – issues 10% of permits
 - Sr. Agricultural & Standards Inspector – issues 90% of permits
- Permittee is required to pass private or qualified applicator certification exam
- County administers private applicator certification exam on an individual basis by appointment
- Testing takes approximately one and a half hours
- Permit issuance takes approximately two hours
- Permits are entered into the Restricted Materials Permit Program (RMPP) and printed out for signature
- Permits are issued to the operator of the property or authorized representative (either an employee, farm management firm, PCO, or PCA)
- Letter of authorization is required for issuance or signature of other than the operator of the property
- Permits are valid for one year, expiring at the end of the calendar year in which they are issued
- All agricultural permits are site specific and all permittees are required to provide accurate maps showing the site locations listed on the permit
- Sites are identified by a 4-digit alpha numeric system, typically the letters identifying permittee(s) and numbers identified with a location on the map
- Site Evaluation Process – Inspectors who issue permits are familiar with local areas and conditions and may visit sites depending on level of pesticide hazard and the sensitivity of the proposed site. This approach allows for consistent customer service, familiarity with potential hazards, and knowledge of established agricultural practices within the county.

- Hazard Evaluation Process –This process involves the review of sensitive sites, endangered species areas (PRESCRIBEs – California Department of Pesticide Regulation (CDPR) Endangered Species Project site), use site locations, and the hazard (or potential hazard) identified. Again, the familiarity with the county, agricultural practices, and the applicators are a major part of the evaluation process.
- Handouts reviewed with permittee at time of issuance:
 - Mariposa County pesticide evaluation, use requirements, and conditions
 - Commodity and Application specific information requirements
 - Personal protective equipment (PPE) requirements
 - Respiratory Protection regulations
 - Pesticide Safety Information Series (PSIS) Agricultural or Non-Agricultural
 - Chemigation Manual
 - California restricted materials list
 - Pesticide Use Compliance Guide for Employers and Businesses
 - Endangered Species bulletin information
 - Notice of intent form and instructions
 - Pesticide use report (PUR) form and instructions
 - Irrigated lands waiver information
- Permit/certification renewals usually occur December – March depending on the commodity
- Two continuing education seminars per year are scheduled
- For renewals, prior year permit files are reviewed for PURs and inspections to determine any problem areas
- Approximately 7 NOIs are received each year
- 24 hour NOIs are required
- NOIs are accepted by telephone, fax, or in person and are monitored between 8 am – 5 pm, Monday – Friday
- After hours, the NOIs are picked up by voice mail. No NOIs are picked up by staff on the weekend

Strengths

- Staff experience and knowledge of local conditions help to reduce substantial adverse environmental impacts
- Historically there have been few to no instances of permit denials due to potential adverse environmental impacts
- Issuance of annual permits allows for regular review of permits, reducing chances for potential adverse impacts
- Specific permit conditions are required for several types of restricted materials used
- Maps are required for all permits issued, both restricted permits and OINs
- Dedicated office computer for issuing restricted materials permits/OINs using the State RMPP program

Weaknesses

- Some NOIs are not submitted 24 hours prior to an application, making it difficult to review or deny NOIs prior an application

Goals

- Assure that the evaluation process for restricted materials permit applications and NOIs is complete and thorough, taking into consideration all aspects of risk assessment through the use of updates and improvements to permit information necessary to make sound determinations on adverse effects.

Deliverables

- Current RMPP program will be upgraded to web-based PPUR system in 2011
- Update all existing restricted material maps with new field digitized GIS sites to assist in accuracy when evaluating permits for adverse environmental and health effects. (2011 permit season)
- Review county GIS parcel data prior to issuing new restricted material permits to assess potential adverse effects. (2011 permit season)
- The county continues to review permits that have restricted materials that have not been used for past 5 years, and work with permittees to eliminate such pesticides. This is an on-going program, which was first implemented in 2007.
- Use the pesticide pre-application site inspection, compliance actions, and NOI denials to increase compliance with 24 hour NOI permit requirement. (2010 permit season)

Evaluation

- Continuing year end review all restricted material permit files for the following:
 - Site specific maps
 - Elimination of pesticides not used for the last 5 years
- Identify number of permits lacking corrections
- Review improvement in number of 24 hour NOI submittals

Site Monitoring Plan Development

- Approximately 47 annual sites
- Majority of NOIs are for the following restricted materials/commodities:
 - Phenoxy herbicides for forest, primarily brush and poison oak control
 - Zinc phosphide for range/forage crops
 - Aluminum phosphide and strychnine for wine grapes
 - Vikane for structural fumigations, less than 2 per year
- NOIs are reviewed by licensed staff -- Agricultural Commissioner & Sr. Agricultural & Standards Inspector
- Sites to be evaluated are based on:
 - Hazard of pesticide use by commodity
 - Aerial applications
 - Applications near roads and residences
 - Environmental conditions
 - Employee handlers
 - Compliance histories
- Pre-application site inspections are performed on at least 5% of NOIs submitted

Strengths

- Staff with experience in county and knowledge of local conditions
- Few types of restricted materials used on a few commodities
- Minimal changes to adjacent environments of sites to be monitored

Weaknesses

- Lack of review of recommendations to assist in assessment of notice of intent primarily with regard to pesticide labeling, rates, and commodities

Goals

- Assure that site monitoring for restricted material use is effective, preventative, and comprehensive, taking into consideration the following risk factors:
 - Pesticide hazards associated with phenoxy herbicides, aluminum phosphide, strychnine, and zinc phosphide
 - Local conditions – particularly ag-urban interface areas
 - Compliance histories

Deliverables

- Pre-application site inspections will be performed on a minimum of 5% of the notices of intent.
- Requests for recommendations will be increased to better evaluate risks associated with proposed applications.

Evaluation

- During each year, the Pesticide Regulatory Activities Monthly Report (PRAMR) will be reviewed to determine if the required 5% pre-application site inspections were performed
- End of year review
 - Increase in number of recommendations received and reviewed
 - Decrease in potential or actual risks

B. COMPLIANCE MONITORING:

Targeted Field Inspections

- Sensitive and high profile sites
- Applicators with a history of compliance problems
- Government operations & applications
- Structural pest control operators

Comprehensive Inspection Plan

- Inspections are performed by licensed and trained staff:
 - Agricultural Commissioner – 5% of job duties
 - Sr. Agricultural & Standards Inspector – 25% of job duties
- Inspections are performed Mondays – Fridays
- Targeted inspections are prioritized by:
 - Applicator compliance history
 - Employee handlers

- Type of application site and pesticide used
- Majority of application inspections are concentrated on weed control applications, applications on public property, and structural pest control applications.
- 2010 Focus to improve monitoring of field activities
 - In fiscal years 06/07 and 07/08 and again in 2009, we conducted a thorough evaluation of the workload based on our current customer base and potential hazards to the public and to the environment.
 - In 2010 – 2012, we will continue to focus on government and commercial applicators conducting pesticide applications on public lands – particularly with regard to the use of PPE and compliance with the label.

Strengths

- The size of the agricultural pesticide application areas, and the experience of the pesticide enforcement staff allows for familiarity with pesticide usage, applicators, and commodity applications in the county.
- A targeted inspection plan that addresses the following components:
 - Violation history
 - Potential for worker health & safety violations
 - Employee handler applications
 - Types of restricted materials applied
- The frequency of headquarters inspections depends on the level of non-compliances. This schedule will allow for effective identification and enforcement action of non-compliances.
- Low level of pesticide related incidents, reducing the need for non-targeted compliance driven

Weaknesses

- Monitoring currently as resources allow due to current workload and availability of trained personnel to conduct inspections
- Small staff, whose duties include other county programs, limits availability for weekend or night time inspections

Goals

- Assure that compliance monitoring is effective and comprehensive, ensuring the safety of pesticide handlers, fieldworkers, the public, and the environment through the use of an inspection strategy that has a measurable effect on compliance improvement

Deliverables

- Maintain frequency of inspections for headquarters
- Maintain targeted inspections for situations where violations have occurred in the past or have the potential to occur
- Increase targeted inspections when necessary for repeat violations

Evaluation

- Review of PRAMR to determine if there has been a decrease in the number of pesticide use and records inspections for targeted components
- Review non-compliances resulting from targeted inspections

Investigation Response and Reporting

- We will continue to investigate all pesticide complaints and prepare a report for the record.
- We will continue to maintain a pesticide complaint/investigation log, which is available for review by the enforcement liaison.
- Current Investigation Trends:
 - We have few pesticide complaints or investigations annually, and those generally take place in the agriculture/urban interface or on federal property.
 - Questions regarding right-of-way sprays
 - Odor complaints
 - Investigations of human exposure to anti-microbials
- Pesticide-related investigations are conducted by trained staff:
 - Agricultural Commissioner – responsible for 10% of investigations
 - Sr. Agricultural & Standards Inspector – responsible for 90% of investigations
 - Investigations and complaints are received by the pesticide enforcement staff.
 - All complaints or incidents that may be related to pesticides receive a response, and results are documented on complaint forms or investigative reports
 - All investigation and complaint reports are reviewed and approved by the Agricultural Commissioner once complete
 - All investigations are completed in a timely manner, and include all necessary information and supporting documentation.

Strengths

- Routing of the investigation/complaint goes directly to Sr. Agricultural & Standards Inspector in conjunction with the Agricultural Commissioner. Without any intermediate personnel, the reports are processed in a timely manner
- Low number of investigations and complaints received by the county allows for the ability to respond and complete investigations and reports in a timely manner
- Staff keep current with investigative training

Weaknesses

- No areas of investigation response or reporting were identified as needing improvement based on the last two fiscal year CDPR effectiveness evaluations

Goals

- Maintain implementation strategy of current investigative response with regard to timely initiation and completion of all priority and non-priority investigations.
- Maintain implementation strategy of current investigative response with regard to use of existing violation analysis and high quality in investigative thoroughness and report accuracy.

Deliverables

- Timely episode investigation initiation and completion
- Investigation reports are accurate and complete

Evaluation

- Review the number of returned/incomplete investigation reports
- Review reversed decisions by appeals due to lack of supporting information

C. ENFORCEMENT RESPONSE:

- Current Year Projections
 - Compliance/ enforcement actions
 - 17 Warning letters & notices of violation (NOV) primarily for late PURS
 - 2 Notices of Proposed Action (NOPA)

Enforcement Response Evaluation

- All actions are discussed with the Agricultural Commissioner prior to implementation (with the exception of violation notices checked off at the time of inspections on inspection forms)
- Compliance actions are prepared by licensed staff
- Enforcement actions are prepared by licensed staff
- All actions are reviewed and signed by the Agricultural Commissioner
- Decision trees in the CDPR enforcement guidelines are followed to determine most appropriate action when violations are identified
- Pesticide use report violations receive warning letters and notice of violations
- For civil penalty actions, the fine guidelines will be followed
- If the action or fine deviates from the guidelines, a justification will be written into the action report
- All NOPAs will provide respondents with detailed information on alleged violations, proposed fine level, Preparing for Your Administrative Hearing pamphlet, and their right for an opportunity to be heard
- Copies of inspection reports and actions are maintained in RMPP, OIN, or business files

Strengths

- Limited chain of command within our office allows for timely review and approval of actions
- Maintaining copies of reports and actions within individual files allows for review of violator's history and selection of most appropriate action for the violation
- Use of enforcement actions as tools to improve compliance

Weaknesses

- Lack of written non-compliance enforcement action plan with specificity for type of violations that routinely occur

Goals

- Provide a swift, consistent, and fair response to non-compliances that results in future compliance by the respondent while working to maintain the respect of the regulated industry as well as maintaining the integrity of our office.

Deliverables

- The Development of an enforcement plan that takes into consideration violation activities specific to Mariposa County.

Evaluation

- Review of individual RMPP, OIN, and business files to verify decrease in repeat non-compliances by violators resulting from new compliance and enforcement plan
- Review of enforcement response to determine if effort was directed at violations that post the greatest risk to people or the environment

2010 - 2012 Focus to improve enforcement response

- We will also continue to consider other enforcement options including denying restricted materials permits, licensee registrations, NOPAs, or involving the county district attorney for the more egregious cases. Historically Mariposa County has had a relatively compliant agricultural industry, and the types of violations have not been of the magnitude reported in other parts of California.

D. STAFF TRAINING:

- 2010 - 2012 Focus to Improve staff training
 - In 2010 and through 2012, we will evaluate our training process and develop training methods, including PUE core program elements, access to training modules, and CDPR /Structural workshops.
 - Utilize DPR staff and resources in the staff training process.